DOCUMENT RESUME

ED 182 951 EC 123 229

TITLE Report to Congressional Staff on State Education Agency Data Request.
INSTITUTION National Association of State Directors of Special Education, Washington, D.C.
PUB DATE 79
NOTE 9p.

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Compliance (Legal); Costs; Elementary Secondary Education; *Federal Legislation; *Handicapped Children; Preschool Education; Program Development; *State Surveys; Student Evaluation; Trend Analysis
IDENTIFIERS *Education for All Handicapped Children Act

ABSTRACT

Responses of state education agencies (SEAs) are reported to questions on the effect of implementing P.L. 94-142, the Education for All Handicapped Children Act. The following topics are briefly addressed (sample subtopics in parentheses): overview of the use of P.L. 94-142 funds (use of flow through funds); incidence and trends in due process hearings; implications of Armstrong vs. Klein (a ruling on extended year programs); impact of P.L. 94-142 on state law; increase in special education staffing as a result of P.L. 94-142 (primary areas of growth in personnel at the local education agency level); comparison of preschool programing between 1975 and 1979 (number served, preschool certification standards); problems in achieving full appropriate public education; effect of priorities; nondiscriminatory assessment; related services; and physical education (requirements for inclusion in the individualized education program). (CL)

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REPORT TO CONGRESSIONAL STAFF

ON

STATE EDUCATION AGENCY DATA REQUEST

1979

National Association of State Directors of Special Education
1201 Sixteenth Street N.W., Washington, D.C. 20036

EC123229

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Overview of The Use of P.L. 94-142 Dollars

To gain insight on the overall use of P.L. 94-142 funds, the following questions were asked of state administrators:

1. What percentage of your Title VI-B dollars do you flow through directly to your SEAs?

Of forty-four states reporting, Hawaii and the District of Columbia were eliminated from the sample since they are the LEA. Data from the remaining 42 states reflect that:

- 19 flow more than 75%
- 10 flow 85% or more
- 23 flow 75%

2. What are the major uses of your Title VI-B discretionary money?

An analysis of responses, from 42 states, reveals a wide variance in the use of discretionary funds. States are targeting funds on state-specific problems. Total responses indicate a general pattern of spending where funds are used to provide LEA support systems, special projects and administrative costs.

General Tendencies:

a. State or regional support systems, i.e., state network of resources centers for:

- materials
- technical assistance
- diagnostics

b. State-wide projects:

- child identification
- inservice training
- direct service model development

c. Administrative Costs.

Specific Examples of Targeting:

- Illinois - 50% of discretionary funds to support room and board payments in residential schools.
- New Jersey - 40% of discretionary funds to support room and board payments in residential schools.

- Utah - 30% child find centers
- Kansas - 20% child find

3. How do you estimate the use of flow-through funds by the LEAs in your state?

A review of the responses from 42 states reveals the following general tendencies:

Fund Use	Percentage	Range - N = 42
Child Identification	15%	6% VT to 65% RI
Instruction, Related Services, Instruction Materials	70%	25% RI to 90% SD, FL, KS
Inservice Training	5%	1% FL,SD, TN, OH to 40% WY
Administrative Support	5%	1- 2% WA, MO,MN to 15% CT
Transportation	5%	0% Several to 15% GA

These estimates are contaminated by overlap between categories, such as, funds used for diagnostic personnel could be included in either child identification or related services. Funds used to support personnel who provide inservice training could be reported in administration.

A Perspective of the Issues of Procedural Safeguards and Due Process, Including the Incidence of and Trends of Hearings

To gain information on the hearing process, the following questions were asked:

1. In your state how many hearings have been held at the local level? At the state level? Number appealed to court? And -

2. Does your state have a formal mediation process?

3. What are the prevalent issues involved in hearings?

The pattern of due process hearings held at local and state level and appealed to court varies considerably among 41 states reporting. Overall, for every 30 hearings at the local level, 10 are appealed to the state level and one is appealed to court.

Forty percent of the states report a formal mediation process as required. A case could be made for the effect of formal mediations in the following comparison. Among six of the largest states, in total number of children served, numbers of hearings reported at the LEA level were as follows:

State	Hearings at LEA Level	Formal Mediation Process
Michigan	600	No
New York	435	No
Illinois	325	No
Pennsylvania	287	Yes
Texas	97	Yes
Ohio	15	Yes
of the smaller states:		
Delaware	50	No
Hawaii	46	No
West Virginia	10	Yes
Idaho	5	Yes
Wyoming	0	Yes
although this trend is relatively consistent, it does not hold true throughout the states, i.e.,		
Virginia	40	Yes
Louisiana	41	Yes
Oklahoma	21	No
North Carolina	17	No
Montana	5	No
Utah	3	No

There is a consistent pattern among the issues requiring due process hearings. All states responding reported appropriate placement and Private-vs.-Public School placement and tuition as a principal cause for hearings. Other issues include diagnosis-labeling, approp riate programs and related services, length of school day and year, transportation, and manual vs. total instructional programs for deaf children.

Implications of Armstrong vs. Kline

An analysis of the implications of this case in Pennsylvania was prepared by BEH and is available from them. To gain state-of-the-art information relative to providing extended year programs we asked state directors to respond to the following questions.

1. Do your regulations allow for the provision of 12-month programs?

And -

2. Are you currently providing 12-month programs?

Of 45 states responding, 18 reported that their regulations do not allow 12-month programs. The remaining states reported that their regulations either do allow or do not disallow extended year programs.

Most states with regulations allowing are providing extended programs. Montana, South Carolina and Virginia report regulations that do-not-disallow, and are providing extended programs. Arizona, North Carolina and Vermont with regulations not allowing such programs, are providing some limited extended programs on a restricted basis with federal discretionary funds.

Impact of P.L. 94-142 on State Law

The states were asked what major changes have occurred in state law and regulations since the passage of P.L. 94-142.

Most states report changes in state laws and/or regulations since the passage of P.L. 94-142. These changes have placed state law and regulations more in conformance with federal guidelines. A review of the listed content areas of change reveals all of the major provisions of the federal law with due process procedures leading the list in frequency.

The following randomly chosen examples reflect the changes that have occurred among the states:

North Carolina - New state law extended ages served, state board responsible to develop standards in corrections and human resources. Rework of state regulations.

Maryland - Noncategorical law, referral to placement process, IEP process, hearing process, surrogate responsibilities.

Montana - State law changes funding and allowable costs, extended program to 3-5 year olds and 18-21 year olds; local option in 1980 regulations.

Ohio - Rewrote entire law, adopted new regulations: due process, identification, least restrictive environment, IEP, related services, certification standards.

West Virginia - Elimination of exclusion factors, provision of services to children in residential programs, modification of advisory council.

South Carolina - Changed reporting dates, 20 new regulations incorporated.

Increase in Special Education Staffing as a Result of P.L. 94-142

States were asked to respond to the questions:

1. What have the increases been in administrative/supervisory and in support staff in your special education department since 1975? And -

2. What are the primary areas of growth in special education personnel in the LEAs?

The implementation of P.L. 94-142 placed many new demands and administrative role changes on the special education units within state education agencies. Paramount among the many challenges was the need to develop and staff new monitoring programs. This, coupled with the tasks of developing state plans, new state regulations and due process procedures, sharply increased the demands on staff. To accomplish a changing workload, SEAs have reacted primarily in two ways:

a) bringing added personnel into the agency, and

b) transferring categorical consultants from technical assistance functions to monitoring.

The overall increases in SEA special education personnel from 1975 to 1979 is surprisingly small. The average increase in professional staff among 41 states reporting was 6-1/2. This figure is weighted by increases in Kentucky of 39, New Jersey of 25 and New York of 20. Only 8 of 41 states reported professional staff increases of 10 or more. Support or clerical staff increases over this period averaged three per state.

Estimates, by state directors, of personnel increases in the LEAs indicate the principal growth areas in order of amount of growth, as a) instructional personnel; b) noncertified teacher aides; c) related service personnel, primarilly diagnosticians, and d) administrative and supervisory personnel.

Comparison of Preschool Programming Between 1975 and 1979

To gain information on the impact of the law on preschool programs for handicapped children, the states were asked the following:

1. The number of preschool handicapped children served in a) 1975, and b) currently.

Several states indicated difficulty in reporting numbers of preschool handicapped children served, particularly in 1975. Twenty-nine states reported both numbers indicating that within that sample the program has more than doubled since 1975:

Served in 1975	Served in 1979	
86,086	180,500	N = 29

2. Did your state have preschool certification standards in 1975? Does it now?

Of 44 states responding to the questions of preschool certification standards, only 9 reported having these standards in place in 1975.

Currently, 19 report existing preschool handicapped certification standards in place, with Nebraska reporting in-progress.

3. What was the status of legislation for preschool handicapped children in 1975? And currently?

Of 44 states reporting the status of legislation for serving preschool handicapped children:

- 4 reported - None
- 25 reported - Permissive
- 15 reported - Mandatory

Since 1975 -
- 1 has moved from none to mandatory
- 6 have moved from permissive to mandatory

Fifteen states reported that their state laws have been changed to lower the age of children to be served, or increased the categories of children to be served, since 1975.

Problems in Achieving FAPE

States were asked the following questions concerning their ability to provide FAPE.

1. Is access to FAPE for secondary handicapped youth a problem in your state? And -

2. Is the establishment of satisfactory linkage between special education and vocational education, and between special education and vocational rehabilitation a major area of concern in your state?

Of 45 states responding to the question of experiencing a problem providing a free, appropriate public education (FAPE) in their states, 35 answered "Yes," and 10 "No." Thirty-three of 45 indicated problems in achieving satisfactory linkages between special education and vocational education, and 34 of 45 indicated problems in achieving satisfactory linkages between special education and vocational rehabilitation.

Effect of Priorities

1. Have the service priorities in the law for severe and profoundly handicapped impeded your ability to serve mild/moderately handicapped?

Forty-three of 46 states responding indicated that the service priority for severe and profoundly handicapped had no effect on their ability to serve mild/moderately handicapped students.

Nondiscriminatory Assessment

1. What are the critical issues to be addressed to achieve nondiscriminatory assessment in your state?

Forty-five states responded to the identification of critical issues to be addressed to achieve the goal of nondiscriminatory assessment. The state-of-the-art was listed as the primary problem by 40 states, including the lack of appropriate instruments and the shortage of trained personnel. Individual states listed the number of cultures to be served, insufficient staff time for inservice training and research, as needs. Three states indicated no or little problem with achieving nondiscriminatory assessment. These states were Delaware, New Hampshire and Iowa.

Related Services

Forty-five states responded to the question of how they were addressing the issue of providing related services to children who are not in need of special education.

Responses can be categorized as follows:

- Services not provided = 12 States
- Services provided through interagency agreement = 7 States
- Education provides service = 26 States

Physical Education

The following questions were asked related to the physical education programs.

1. As a result of the law, has your state established certification standards for adaptive physical education personnel?

Response: Yes, 4; No, 40.

2. As a result of the law, has your state established criteria for eligibility to determine when a child should receive adaptive physical education, as opposed to regular physical education?

Response: Yes, 14; No, 30.

3. As a result of the law, has your state established a state requirement for physical education to be a part of the IEP?

Response: Yes, 25; No, 18.

Sixteen of 41 states reported problems in achieving physical education for handicapped children commensurate with regular standards.

A fact sheet on Project FORUM is attached. We invite you to view this project as a resource for future information.